

In the Matter of

Applications for Consent to the
Transfer of Control of Licenses

**Comcast Corporation and
AT&T Corp.**, Transferors,

To

AT&T Comcast Corporation,
Transferee

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	2
II.	DESCRIPTION OF THE TRANSACTIONS	6
A.	The Proposed Transactions	6
B.	The Merger Applicants	9
1.	Comcast.....	9
2.	AT&T Broadband	16
3.	Connecting Classrooms And Communities	25
III.	MERGER REVIEW STANDARDS	26
IV.	THE MERGER WILL GENERATE SUBSTANTIAL PUBLIC INTEREST BENEFITS.	28
A.	The Merger Will Accelerate The Deployment Of Facilities-Based High-Speed Internet Service, Digital Video, And Other Broadband Services, Particularly To Residential Customers.....	29
B.	The Merger Will Promote Facilities-Based Local Telephone Competition, Particularly To Residential Consumers.	35
1.	Creating A Stronger Telephony Competitor	37
2.	Leveraging AT&T Broadband's Substantial Expertise And Experience.....	39
C.	The Merger Will Increase The Supply Of Local And Regional Programming.....	42
D.	The Merger Will Permit AT&T Comcast To Compete More Effectively In Selling National, Regional, And Local Advertising.....	45
E.	The Public Interest Benefits Cannot Be Achieved Independently Of The Merger	47

V.	THE MERGER WILL NOT RESULT IN ANY VIOLATIONS OF THE COMMUNICATIONS ACT OR THE COMMISSION’S RULES.	48
A.	Cable Horizontal Ownership Limit.....	49
B.	Cross-Ownership And Multiple Ownership Limits	51
C.	Program Access Rules	52
D.	Foreign Ownership Limit.....	52
E.	Channel Occupancy Limit	52
F.	AT&T Broadband’s TWE Interest.....	53
VI.	THE MERGER WILL HAVE NO ANTICOMPETITIVE EFFECTS IN ANY RELEVANT MARKET.	64
A.	Multichannel Video Programming Distribution	65
B.	Video Programming Production And Packaging.....	67
1.	Market Definition.....	68
2.	Seller Market Power	69
3.	Buyer Market Power	71
C.	Set-Top Boxes, Cable Modems, And Other MVPD Consumer Equipment.....	78
D.	Interactive TV Services.....	84
E.	Telephone Services	89
F.	Internet Services.....	90
VII.	PROCEDURAL MATTER	95
VIII.	CONCLUSION.....	96

LIST OF APPENDICES

Number

1. Agreement and Plan of Merger Between AT&T Corporation and Comcast Corporation
2. List of Licenses To Be Transferred
3. Separation and Distribution Agreement Between AT&T Corporation and AT&T Broadband
4. Chart Depicting AT&T Comcast Ownership Structure
5. Microsoft QUIPS Exchange Agreement
6. Chart of Comcast Cable Systems, Ownership Structure, and Total Number of Customers
7. Chart of AT&T Broadband Cable Systems, Ownership Structure, and Total Number of Customers
8. June 6, 2001 Letter from AT&T Broadband to Cablevision
9. Declaration of Robert Pick, Senior Vice President, Corporate Development, Comcast
10. List of AT&T Broadband SMATV Systems
11. List of Comcast SMATV Systems
12. Time Warner Entertainment Securities and Exchange Commission Form 8-K

**DESCRIPTION OF TRANSACTIONS,
PUBLIC INTEREST SHOWING,
AND RELATED DEMONSTRATIONS**

Comcast Corporation (“Comcast”) and AT&T Corp. (“AT&T”) have entered into an Agreement and Plan of Merger dated December 19, 2001 (the “Agreement”) under which Comcast and AT&T have agreed to combine Comcast and AT&T’s broadband business.¹ Under the Agreement, AT&T Broadband Corp., a holding company for AT&T’s broadband division (“AT&T Broadband”), will be spun-off to AT&T’s shareholders. Upon completion of the spin-off, both Comcast and AT&T Broadband will merge with and become wholly-owned subsidiaries of AT&T Comcast Corporation (“AT&T Comcast”). Upon completion of these mergers, Comcast shareholders will receive one share of the corresponding class of AT&T Comcast stock for each of their shares of Comcast stock, and AT&T shareholders will receive in the aggregate for their shares of AT&T Broadband common stock 1.235 billion shares of AT&T Comcast Class A stock.

Pursuant to the Agreement, AT&T and Comcast are each filing simultaneously herewith a series of applications seeking the consent of the Federal Communications Commission (“FCC” or “Commission”), in accordance with sections 214 and 310 of the Communications Act of 1934, as amended (the “Communications Act” or the “Act”),² to

¹ A copy of the Agreement is attached as Appendix 1. A copy of the preliminary proxy statement/prospectus for the transaction, which was filed with the Securities and Exchange Commission (“SEC”) on February 11, 2002, is available at: <http://www.cmcsk.com/EdgarSummary.cfm?CIK=22301&FID=950123-02-1150>.

² 47 U.S.C. §§ 214, 310.

the transfer of control of FCC licenses and authorizations controlled by their wholly- or majority-owned subsidiaries to AT&T Comcast.³

As shown below, the proposed merger, including the transfer of control of these licenses and authorizations, will comply with the Act and the Commission's rules and will promote the public interest by accelerating facilities-based competition in the provision of broadband services, including but not limited to digital video, high-speed Internet service, and local telephony. The Applicants respectfully request that the Commission grant its consent to these transfers.

I. INTRODUCTION AND SUMMARY

The proposed merger of Comcast and AT&T Broadband creates a unique opportunity to accelerate the development and deployment of facilities-based broadband services. By uniting two companies with remarkably complementary assets, this merger will bring more digital services and features, to more Americans, more quickly. The transaction will yield demonstrable benefits in investment, innovation, competition, and new and improved video, data, and voice services, with no offsetting detriments. The merger will therefore serve the public interest.

The merger of Comcast and AT&T Broadband will accelerate the deployment of facilities-based high-speed Internet service and other broadband services. Speeding the deployment of these advanced services not only will benefit consumers by offering them

³ The FCC authorizations that are the subject of these transfer of control applications include licenses in the cable television relay service, satellite transmit and receive earth station service, land mobile radio service, common carrier and non-common carrier-point-to-point microwave service, wireless communications service, and international and domestic common carrier service. A list of the licenses to be transferred is attached as Appendix 2.

innovative video and other services, but also will benefit the nation at large by stimulating productivity gains and economic growth. Although Comcast has substantially finished the upgrades to its cable plant necessary to offer broadband services, AT&T Broadband's systems require significant additional investment in order to complete needed upgrades. Due to economies of scale and scope and cost savings resulting from the merger, those upgrades can and will be implemented faster, bringing more benefits to more consumers sooner, than would be possible without the merger. Scale and scope efficiencies and cost savings generated by this merger will also increase the incentive and ability of the merged firm to invest in, and assume the risks associated with, developing and deploying a variety of innovative services and features, such as high definition television ("HDTV"), video-on-demand, and other interactive television ("interactive TV") services.

The proposed merger will also bring benefits in the form of long-awaited local telephone competition, particularly for residential customers. AT&T Broadband brings to this merger its considerable expertise and experience in the provision of circuit-switched telephony over cable plant. It currently markets cable telephony to more than seven million households and serves more than 1.5 million lines. Significantly, Comcast has no comparable offerings, and the merger will thus permit Comcast to accelerate its entry into this market. Although providing local telephone service in competition with incumbent carriers involves substantial business risk, AT&T Comcast will be better equipped to confront that risk than either company could alone, because of the complementary assets and expertise of Comcast and AT&T Broadband. Importantly, this competition will be *facilities-based*, thus allowing the merged company to offer

residential customers a broader range of differentiated services and features that are far less dependent on access to the incumbent's facilities on economically-viable terms and conditions.

The proposed merger also will deliver benefits to consumers by stimulating the production and delivery of local and regional programming. Comcast is widely recognized as an industry leader in the development of successful, high-quality programming geared to regional and local markets. The merger will enable AT&T Comcast to extend this expertise to areas in which AT&T Broadband has significant clusters. The merger will also allow the two companies to draw on their respective expertise in community outreach efforts, including initiatives to connect classrooms to the Internet.

The proposed merger will not result in any violations of the Communications Act or the Commission's rules. In particular, it bears emphasis that AT&T Comcast will serve less than 30% of the nation's multichannel video programming distribution ("MVPD") customers, the national limit that was reversed and remanded in *Time Warner II*.⁴ That calculation does not include the customers served by the Time Warner Entertainment ("TWE") and Time Warner Inc. ("TWT") cable systems. AT&T, with the full support of Comcast, is firmly committed to completing the sale of its limited partnership interest in TWE. If that divestiture is not completed prior to closing, the Applicants are prepared to take the steps that may be necessary to insulate the interest (and thus render it non-attributable) under the Commission's rules.

⁴ See *Time Warner Entm't Co. v. FCC*, 240 F.3d 1126 (D.C. Cir. 2001) ("*Time Warner II*"), cert. denied sub nom. *Consumer Fed'n of Am. v. FCC*, 122 S. Ct. 644 (2001).

The proposed merger will have no anticompetitive effects in any relevant market. Comcast and AT&T Broadband provide services to consumers in different local markets and, therefore, their union will not affect horizontal concentration in any relevant market. Further, the combined entity will not have either the ability or incentive to exercise buyer or seller market power in any relevant market. In addition, AT&T Comcast is fully committed to negotiating mutually beneficial service agreements with Internet service providers (“ISPs”) so that its cable customers will have a choice of ISPs. Both AT&T Broadband and Comcast have conducted trials to explore the issues associated with multiple ISP arrangements. Now, each Applicant is actively (and independently) negotiating to reach commercial agreements with unaffiliated ISPs. Indeed, Comcast recently announced that it has executed an agreement with United Online that will provide Comcast’s customers in Indianapolis and Nashville with access to United’s ISP service, with the potential to roll-out this offering to other Comcast cable systems with the concurrence of both Comcast and United Online.

In summary, the proposed merger of Comcast and AT&T Broadband offers real and substantial benefits to consumers. It will enable AT&T Comcast to accelerate costly investments required to equip cable systems with the capability to deliver and improve high-speed Internet and other broadband services. The proposed combination will also promote facilities-based local telephone competition, particularly for residential customers, and will hasten the development and deployment of other advanced competitive services. The merger will not have any adverse competitive effects in any relevant market.

II. DESCRIPTION OF THE TRANSACTIONS

A. The Proposed Transactions

The AT&T Comcast transaction will occur in several steps and will be subject to the receipt of the necessary governmental approvals and the satisfaction or (to the extent permissible) waiver of other conditions specified in the Agreement, such as required shareholder approvals.

AT&T will (i) assign and transfer to AT&T Broadband all of the assets of AT&T's broadband cable and cable telephony business and (ii) cause AT&T Broadband to assume all of the liabilities of AT&T's broadband business (as reflected in the AT&T Broadband Group balance sheet dated as of December 31, 2000 or as otherwise specified in the Separation and Distribution Agreement between AT&T and AT&T Broadband⁵) that are not at such time assets or liabilities of AT&T Broadband or an AT&T Broadband subsidiary.

AT&T will then spin-off AT&T Broadband to the shareholders of AT&T. Immediately following this spin-off, Comcast and AT&T Broadband will each merge with different, wholly-owned subsidiaries of the newly-created AT&T Comcast Corporation.⁶ Following these steps, AT&T Comcast will be the new public company parent of AT&T Broadband and Comcast, both of which will be wholly-owned

⁵ A copy of the Separation and Distribution Agreement is attached as Appendix 3.

⁶ Specifically, Comcast will merge into Comcast Acquisition Corp., a newly formed, wholly-owned subsidiary of AT&T Comcast, with Comcast surviving. AT&T Broadband will merge into AT&T Broadband Acquisition Corp., also a newly-formed, wholly-owned subsidiary of AT&T Comcast, with AT&T Broadband surviving. In addition, at the option of AT&T Comcast, AT&T Broadband Holdings, LLC, which will be a wholly-owned subsidiary of AT&T Comcast, will become an intermediate holding company between AT&T Comcast and AT&T Broadband. Appendix 4 contains a chart that depicts the ownership structure of AT&T Comcast.

subsidiaries of AT&T Comcast. As a result, AT&T Comcast will consist of both companies' cable systems, both companies' interests in programming services, as well as other assets owned by the two companies which are described in detail in section II.B below.

Each Comcast shareholder will receive one share of the corresponding class of AT&T Comcast stock for each share of Comcast stock. Each AT&T Broadband shareholder will receive a number of shares of AT&T Comcast stock determined pursuant to a formula described in the Agreement. Upon completion of the AT&T Comcast transaction, current AT&T shareholders will own shares representing approximately 53% of AT&T Comcast's economic interest and, depending upon which of two alternative capital structures is implemented according to the terms of the Agreement, either approximately 58% or 54% of AT&T Comcast's voting power.⁷ Current Comcast shareholders (except for Sural LLC) will own shares representing approximately 41% of AT&T Comcast's economic interest and, depending upon which of the alternative capital structures is implemented, either approximately 3% or 7% of AT&T Comcast's voting power. Sural LLC, which is controlled by Brian L. Roberts, the President of Comcast, and which today holds shares representing approximately 86.7% of Comcast's voting power, will own shares representing approximately 1% of AT&T

⁷ AT&T Comcast will have one of two capital structures upon completion of the transaction that will affect the level of voting power held by various categories of shareholders described above: a "Preferred Structure" that will be implemented if the holders of the Comcast Class A common stock, voting as a single class, and the holders of Comcast Class A common stock and Comcast Class B common stock, voting as a single class, approve the Preferred Structure, or an "Alternative Structure" that will be implemented if the holders of the Class A stock, voting as a single class, do not. The final ownership percentages at the time the transactions are closed are subject to various adjustments as set forth in the Agreement.

Comcast's economic interest and a non-dilutable 33% of AT&T Comcast's voting power upon completion of the transaction.⁸ In addition, as the result of an exchange of Quarterly Income Preferred Securities ("QUIPS") it currently holds in AT&T, Microsoft Corporation ("Microsoft") will own approximately 5% of AT&T Comcast's economic interest, but less than 5% of AT&T Comcast's voting power.⁹

Upon completion of the transactions described above, the AT&T Comcast board will consist of 12 members, at least seven of whom will not be employees or officers of AT&T Comcast. AT&T and Comcast will each designate five members to the AT&T Comcast Board and will jointly select two additional members, each of whom will not be an employee or officer of AT&T Comcast. Brian L. Roberts, currently President of Comcast, will become Chief Executive Officer and President of AT&T Comcast, and C. Michael Armstrong, currently Chairman of the Board and Chief Executive Officer of

⁸ Sural LLC, however, may exercise its right to merge into AT&T Comcast immediately preceding the closing, in which event Brian L. Roberts would directly own shares conferring a non-dilutable 33% share of AT&T Comcast's voting power.

⁹ Comcast, AT&T and AT&T Comcast have entered into an exchange agreement ("QUIPS Exchange Agreement," a copy of which is attached as Appendix 5), with Microsoft under which, at the time of the AT&T Broadband spin-off, Microsoft will exchange the QUIPS for a number of shares of AT&T Broadband common stock that will be converted in the merger into 115 million shares of AT&T Comcast common stock, representing the percentage of AT&T Comcast's economic interest and voting power that is described above. (The QUIPS Exchange Agreement was originally entered into by Comcast and Microsoft, with AT&T and AT&T Comcast subsequently becoming parties to this agreement pursuant to an Instrument of Admission entered into in December 2001.) AT&T Comcast has agreed that, from completion of the QUIPS exchange transaction, until its fifth anniversary, if AT&T Comcast offers a high-speed Internet service agreement to any third party on any of its cable systems, then it will be obligated to offer an Internet service agreement on non-discriminatory terms with respect to the same cable systems to Microsoft's Internet service provider, The Microsoft Network. In addition, as discussed further in section VI.D below, Microsoft and Comcast Cable Communications, Inc. ("Comcast Cable"), a wholly-owned subsidiary of Comcast, have agreed to a binding term sheet which provides that the parties will conduct a trial during 2002 of an interactive TV platform, including set-top box middleware.

AT&T Corp., will become Chairman of the Board of AT&T Comcast. Brian L. Roberts, in consultation with C. Michael Armstrong, will select the other members of senior management of AT&T Comcast.

B. The Merger Applicants

1. Comcast

Comcast began offering cable service in 1963 in Tupelo, Mississippi, with just over 1,000 cable customers. Under the leadership of the Roberts family,¹⁰ Comcast has since experienced extraordinary growth in the scale and scope of its business. The company has developed and deployed a range of new technologies and programming services as part of its ongoing efforts to improve the services it offers to its customers. As a result, Comcast has established an industry-standard-setting reputation for technology leadership, strong financial performance, and operational efficiency.¹¹ This has made Comcast a top-tier provider of cable television service, high-speed Internet service, electronic commerce, video programming, and other services to millions of customers. Comcast's aggregate revenues for the year ending December 31, 2001, were \$9.7 billion.

Comcast - Cable Systems. Comcast offers its customers a full array of traditional video products, including local broadcast stations; national, regional, and local cable programming channels; premium movie channels; and pay-per-view services. As

¹⁰ Ralph J. Roberts is currently Comcast's Chairman and Brian L. Roberts is its President.

¹¹ This has been recognized in many ways, including the company's selection as Operator of the Year in 2000 by *Cablevision Magazine*. See Karen Kessler, *Kudos for Comcast* (Sept. 21, 2000), available at: <<http://www.cedmagazine.com/cedailydirect/0009/cedaily000921.htm>>.

of December 31, 2001, Comcast's wholly-owned cable systems served 8.471 million customers in 26 states and passed approximately 13.8 million homes. Over the past six years, Comcast has invested over \$5 billion – including \$1.85 billion in 2001 alone – to upgrade its cable plant by installing fiber optics and other technological improvements. As the result of these upgrades, 95% of Comcast's customers are currently served by systems that provide bandwidth of 550 MHz or higher, and over 80% of its customers by systems that provide bandwidth of 750 MHz or higher.

Comcast served 2.3 million digital cable customers at the end of 2001, or 27% of its cable customer base. Comcast's digital cable service is now available to nearly 99% of Comcast's customers. Comcast generally offers two digital video services. The original digital service, Comcast Digital Basic, offers roughly 170 channels of multiplexed premium channels, premium pay-per-view channels, and commercial-free, compact disc-quality, music channels. Comcast's Digital Plus service, also referred to as the "digital tier," adds roughly 40 more channels similar in format to those traditionally found on the cable programming service tier (*e.g.*, BBC America, Discovery Civilization, and other commercially supported services). Comcast began making HDTV service available to more than 1.3 million customers in Pennsylvania, New Jersey, and Delaware in November 2001, and plans to launch this service in additional markets. Comcast is also investing significant resources to test and deploy various other services on its state-of-the-art cable systems, including Internet-based home security systems, and personal video recording.

In addition to its wholly-owned systems, Comcast owns a 30% general partnership interest in Clearview Partners, which operates cable systems in Maryland and

Pennsylvania that serve a total of approximately 10,500 cable customers. A chart listing Comcast's cable systems, their ownership structure, and total number of customers, is attached as Appendix 6.¹²

Comcast – Interactive TV Services. Comcast offers a number of services that can be characterized as “interactive TV services.”¹³ For example, Comcast's digital cable service provides customers with electronic programming guides with improved navigation functionality and parental controls. In addition, having conducted video-on-demand trials in four markets in 2001, Comcast now offers video-on-demand service on cable systems passing over three million homes in 16 markets. Comcast's video-on-demand service offers a variety of content, delivered in real-time over the cable plant, and permits customers to enjoy the kind of functionalities they have come to expect from videocassette recorders and digital videodisc (“DVD”) players: stop, pause, fast-forward, and rewind. Comcast has to date acquired access to several hundreds of hours of programming, including new movies and “library” titles (*e.g.*, classic movies or select children's programming). Video-on-demand offerings may also include individual shows that were previously exhibited on certain cable networks.

¹² Comcast also owns 15% of the common stock of the Susquehanna Cable Company (“Susquehanna Cable”) and 18% of the common stock of each of Susquehanna Cable's principal operating subsidiaries. Susquehanna Cable and its subsidiaries serve approximately 192,000 cable customers. Comcast's interest in Susquehanna Cable and its subsidiaries is not attributable because Susquehanna Media Company is a single majority shareholder with an 85% voting interest in Susquehanna Cable and a 70% voting interest in each of its operating subsidiaries. Comcast's interest is therefore exempt from attribution under the Commission's single majority shareholder exemption. *See Time Warner II*, 240 F.3d 1126 (vacating FCC decision to eliminate single majority shareholder exemption from cable attribution rules).

¹³ As set forth in section VI.D below, interactive TV services are still in an early stage of evolution characterized by innumerable risks and uncertainties, and the “market” does not lend itself to ready definition.

Comcast is also exploring other offerings that combine traditional video programming with interactive functionalities, including advanced home shopping and digital video recording features.¹⁴ Comcast has conducted interactive TV trials, including trials with Wink Interactive Television in Chesterfield and Prince William Counties, Virginia, and with Liberate Interactive Television in other markets. These interactive services permit customers to access program-related information such as weather, sports updates, and trivia; to play two-way games; to make purchases instantly; and to switch languages dynamically, simply by clicking the remote control during an enhanced program or advertisement.

Comcast – Internet. Comcast High-Speed Internet Service is available to 10.4 million households, or approximately 75% of the homes that Comcast’s cable systems pass. At the end of 2001, Comcast High-Speed Internet Service had over 948,100 customers. Comcast’s Internet service was previously provided in partnership with Excite@Home, which had substantial contractual responsibility for the maintenance and operation of many of the facilities that connected Comcast’s headend equipment to the public Internet. Excite@Home filed for bankruptcy protection in September 2001, and Comcast has now transferred all of its high-speed Internet customers to a network that is owned and managed by Comcast. Comcast dedicated substantial resources to ensure that this transfer was achieved with minimal disruption of customer service.¹⁵

¹⁴ Comcast has conducted trials with TiVo and Replay TV for digital video recording features.

¹⁵ Comcast spent over \$140 million in transitioning customers to its own network. Moreover, subsequent to Excite@Home’s bankruptcy filing, Comcast helped ensure a smooth transition by reaching an agreement with Excite@Home to continue to support high-speed Internet service for its customers until February 28, 2002. Comcast also hired more than 2,000 additional telephone representatives and sent a series of mailings to each